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No. 92-2046

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

JAMES B. HUNT, JR., GOVERNOR OF NORTH CAROLINA, *et al.*,

Petitioners,

v.

REPUBLICAN PARTY OF NORTH CAROLINA, *et al,*

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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BRIEF OF RESPONDENT NORTH CAROLINA ASSOCIATION OF BLACK LAWYERS IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI

JAMES E. FERGUSON, II
FERGUSON, STEIN,
WALLAS, ADKINS,
GRESHAM & SUMTER, P.A.
Suite 730
East Independence Plaza
700 East Stonewall Street
Charlotte, NC 28202
(704) 375-8461

Attorney for Respondent North Carolina Association of Black Lawyers

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Respondent North Carolina Association of Black Lawyers (NCABL) was an intervenor-defendant in the courts below. Thus, if this Court were to grant the petition for a writ of certiorari NCABL would support the position of the petitioners on the merits: North Carolina's unique system of electing trial court judges does not violate the fourteenth amendment's prohibition of politically partisan gerrymandering. However, for the reasons set out herein, NCABL urges that the present petition be denied.

NCABL is firmly of the opinion that the district court correctly dismissed the complaint. Since the complaint was dismissed, however, the record is devoid of facts that would illuminate the claims made by the plaintiffs or substantiate the state's defense, including the reasons that support North Carolina's retention of its unique method for electing trial judges. Further, NCABL intervened in the litigation in order to defend a system that has already been upheld as not violating the equal protection clause (*Holshouser v. Scott*, 335 F. Supp. 928 (M.D.N.C. 1971), *aff. mem.*, 409 U.S. 807 (1972) and to demonstrate that a shift to district rather than state-wide election of judges would be regressive in terms of the ability of African American voters to elect candidates of their choice.

NCABL believes that the case should be disposed of through the grant of summary judgment in favor of defendants. Nevertheless, because of the complexity of the factual issues raised by the case, respondent is of the view that the Court's eventual consideration of the legal issues would be greatly aided by a fully developed record.

Finally, because of the uniqueness of North Carolina's system for electing trial court judges — no other state uses a similar system — this petition raises no questions of national importance. A decision on the merits by the courts below will greatly assist the Court in deciding whether the case warrants review.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

JAMES E. FERGUSON, II
FERGUSON, STEIN,
WALLAS, ADKINS,
GRESHAM & SUMTER, P.A.
Suite 730
East Independence Plaza
700 East Stonewall Street
Charlotte, NC 28202
(704) 375-8461

Attorney for Respondent
North Carolina Association of
Black Lawyers